

EXHIBIT 5

CAUSE NO. **21-DCV-287142**

JACKIE NGUYEN,	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	FORT BEND COUNTY, TEXAS
	§	
INSPECTIONS NOW, INC.,	§	Fort Bend County - 434th Judicial District Court
	§	
<i>Defendant.</i>	§	____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

Plaintiff, Jackie Nguyen ("Ms. Nguyen"), files this Original Petition against Defendant, Inspections Now, Inc. ("Inspections Now") as follows:

I.

OVERVIEW

1. In February 2021, a fire erupted from the Plaintiff's fireplace killing four people.

II.

DISCOVERY CONTROL PLAN

2. Under Rule 190 of the Texas Rules of Civil Procedure, Plaintiff requests that all discovery for this matter be conducted pursuant to a Level II Discovery Control Plan.

III.

PARTIES

3. Plaintiff, Jackie Nguyen, is the surviving mother of O.N., E.N., and C.N. She is an individual residing in Fort Bend County, Texas and brings this suit individually against Defendant.

4. Defendant Inspections Now, Inc., is a corporation located in and doing business in the state of Texas. Inspections Now may be served via its registered agent, Joseph R. Fleet, at 1719 Red Oak Terrace, Kingwood, Texas 77339.

IV.

JURISDICTION AND VENUE

5. The claims asserted arise under the common laws of Texas. This Court has jurisdiction and venue is proper because all or substantially all of the events giving rise to the claims asserted in this lawsuit occurred in Fort Bend County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002.

V.

BACKGROUND AND FACTS

6. This lawsuit is necessary because of tragic fire that killed four people in Fort Bend County, Texas.

7. Before the house was purchased, Defendant Inspections Now was hired to perform a complete inspection of the Property. The inspection report (“Report”) indicated the functionality and safety of the fireplace and chimney on the Property, and expressly represented that the “unit appears operable.” Plaintiff relied upon this report.

8. On February 15, 2021, the fireplace at the Plaintiff’s home was lit. Later, the Property caught fire and four people died.

VI.

CAUSES OF ACTION

A. *Negligence.*

9. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth therein.

10. Inspections Now owed a legal duty to Ms. Nguyen to act as a reasonable person would in performing a proper chimney and fireplace inspection. The Chimney Safety Institute of America sets forth industry standards for chimney inspections and requires inspectors to perform a Level II chimney inspection upon the sale or transfer of a property.

11. Inspections Now breached its duty to Ms. Nguyen and its negligence caused her injuries when it failed to properly inspect the Property.

B. *Wrongful Death.*

12. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

13. The acts and failures to act by Defendant proximately caused the fire which ultimately destroyed the Property and caused the Decedents' untimely deaths.

14. Under § 71.022 of the Texas Civil Practice and Remedies Code, Ms. Nguyen is entitled to recover for the death of Decedents and damages suffered, including, but not limited to, the loss of companionship, pain, and suffering, and mental anguish in the past and future.

VII.

DEMAND FOR JURY TRIAL

15. Plaintiff demands a jury trial.

VIII.

TEXAS RULES OF CIVIL PROCEDURE RULE 47 STATEMENT

16. Under Rule 47 of the Texas Rules of Civil Procedure, Mr. Nguyen states that he seeks monetary relief in excess of \$1,000,000.00.

IX.

ALL CONDITIONS PRECEDENT

17. All conditions precedent to the causes of actions brought by Mr. Nguyen have occurred.

X.

CONCLUSION AND PRAYER

Plaintiff prays that this citation issue and be served on Defendant in a form and manner prescribed by law, requiring that Defendants appear and answer, and that upon final hearing, Plaintiff has judgment against Defendant, both jointly and severally, in a total sum in excess of the minimum jurisdictional limits of this Court, plus prejudgment and post judgment interests, all costs of Court, exemplary damages, and all such other and further relief, to which she may show herself justly entitled.

Date: September 7, 2021

Respectfully submitted,
ARNOLD & ITKIN LLP

/s/ Jason A. Itkin

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure on this 7th day of September 2021.

/s/ Jason A. Itkin
Jason A. Itkin